



BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-201-839

Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: We determine that imports of bottom mount combination refrigerator-freezers (bottom mount refrigerators) from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). In addition, we determine that critical circumstances exist with respect to the subject merchandise exported from Mexico by Samsung Electronics Mexico, S.A. de C.V. (Samsung).

Based on our analysis of the comments received, we made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled "Final Determination Margins."

EFFECTIVE DATE: (Insert date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: David Goldberger or Katherine Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 and (202) 482-4929, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

On November 2, 2011, the Department published in the Federal Register the preliminary determination of sales at LTFV in the antidumping duty investigation of bottom mount refrigerators from Mexico.<sup>1</sup> Since the preliminary determination, the following events have occurred.

In November 2011, we issued supplemental questionnaires to, and received responses from, all four respondents: Electrolux Home Products Corp. NV/Electrolux Home Products De Mexico, S.A. de C.V. (Electrolux), LG Electronics Monterrey Mexico, S.A. de C.V. (LGEMM), Controladora Mabe, S.A. de C.V./Mabe, S.A. de C.V. (Mabe), and Samsung. Also, in November 2011, we received updated shipment information for our critical circumstances analysis from Electrolux, LGEMM, and Samsung.

On December 5, 2011, Whirlpool Corporation (hereafter, the petitioner) amended its targeted dumping allegation with respect to Samsung to reflect the revised U.S. sales data submitted by Samsung in response to the Department's November 2011, supplemental questionnaire.

In November and December 2011, we verified the questionnaire responses of the four respondents in this case, in accordance with section 782(i) of the Act. In December, January and February 2012, we issued our verification findings for each respondent.<sup>2</sup>

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<sup>1</sup> See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers from Mexico, 76 FR 67688 (Nov. 2, 2011) (Preliminary Determination).

<sup>2</sup> See Memorandum to The File entitled "Verification of the Cost Response of Electrolux Home Products, Corp. N.V. and Electrolux Home Products, Inc. (collectively "Electrolux") in the Antidumping Investigation of Bottom Mount. Combination Refrigerator-Freezers from Mexico," dated December 22, 2011; Memorandum to The File

In February 2012, the Department requested, and the respondents submitted, revised U.S. and/or comparison-market sales listings to reflect certain verification findings.

Also, in February 2012, the petitioner and the respondents (except for Electrolux) submitted case and rebuttal briefs. On February 22, 2012, the Government of Mexico submitted comments on certain aspects of the Department's preliminary determination. On February 24, 2012, the Department held a hearing in this case.

Subsequent to the Preliminary Determination, the Department revised the computer programs used to calculate the respondents' dumping margins to ensure that they accurately reflected the methodological choices made in that determination. These revisions to the programming, had they been included in the preliminary determination, would not have altered the weighted-average dumping margins calculated there. See March 16, 2012, Memoranda to The File entitled "Final Determination Margin Calculation for LG Electronics Monterrey

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entitled "Verification of the Sales Response of Electrolux Home Products, Corp. N.V. and Electrolux Home Products, Inc. (collectively "Electrolux") in the Antidumping Duty Investigation of Bottom Mount Combination Refrigerator-Freezers (BMRFs) from Mexico," dated February 1, 2012; Memorandum to The File entitled "Verification of the Cost Response of LG Electronics, Inc. in the Antidumping Investigation of Bottom-Mount Combination Refrigerator-Freezers from the Republic of Korea, dated December 22, 2011; Memorandum to the File entitled "Verification of the Cost Response of LG Electronics Monterrey Mexico, S.A. de C.V. in the Antidumping Investigation of Bottom Mount Combination Refrigerator-Freezers from Mexico," dated December 22, 2011; Memorandum to The File entitled "Verification of the Third Country Sales Response of LG Electronics Monterrey Mexico, S.A. de C.V. and LG Electronics Canada," February 1, 2012; Memorandum to The File entitled "Verification of the U.S. Sales Response of LG Electronics Monterrey Mexico, S.A. de C.V. and LG Electronics USA, Inc.," dated February 2, 2012; Memorandum to the File entitled "Verification of the Sales Response of Samsung Electronics Co., Ltd in the Less-Than-Fair-Value Investigation of Bottom-Mount Refrigerator-Freezers from Korea," dated February 2, 2012; Memorandum to the File entitled "Verification of the Cost Response of Controladora Mabe S.A. de C.V. Mabe S.A. de C.V., and Leiser S. de R.L. in the Antidumping Investigation of Bottom-Mount Combination Refrigerator-Freezers from Mexico," dated January 4, 2012; Memorandum to The File entitled "Verification of the Sales Responses of General Electric Company," dated January 13, 2012; Memorandum to The File entitled "Verification of the Sales Responses of Controladora Mabe S.A. de C.V., and Mabe S.A. de C.V. (collectively, "Mabe")," dated January 25, 2012; Memorandum to The File entitled "Verification of the Cost Response of Samsung Electronics Mexico S.A. de C.V. in the Less-Than-Fair-Value Investigation of Bottom Mount Combination Refrigerator-Freezers from Mexico", dated December 21, 2011; Memorandum to The File entitled "Verification of the U.S. Sales Response of Samsung Electronics Mexico, S.A. de C.V.," dated January 9, 2012; and Memorandum to The File entitled "Verification of Samsung Electronics America Inc.," dated January 26, 2012.

Mexico, S.A. de C.V. (LGEMM)” (LGEMM Calculation Memo); “Final Determination Margin Calculation for Samsung Electronics Mexico S.A. de C.V. (SEM)” (Samsung Calculation Memo); “Final Determination Margin Calculation for Electrolux Home Products, Corp. N.V./Electrolux Home Products de Mexico, S.A. de C.V” (Electrolux Calculation Memo); and “Final Determination Margin Calculation for Controladora Mabe S.A. de C.V., Mabe S.A. de C.V., and Leiser S. de R.L. (collectively, Mabe),” which contain the revised preliminary antidumping duty margin program log and output for each respondent.

#### Period of Investigation

The period of investigation (POI) is January 1, 2010, through December 31, 2010.

#### Scope of Investigation

The products covered by the investigation are all bottom mount combination refrigerator-freezers and certain assemblies thereof from Mexico. For purposes of the investigation, the term “bottom mount combination refrigerator-freezers” denotes freestanding or built-in cabinets that have an integral source of refrigeration using compression technology, with all of the following characteristics:

- The cabinet contains at least two interior storage compartments accessible through one or more separate external doors or drawers or a combination thereof;
- An upper-most interior storage compartment(s) that is accessible through an external door or drawer is either a refrigerator compartment or convertible compartment, but is not a freezer compartment;<sup>3</sup> and

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<sup>3</sup> The existence of an interior sub-compartment for ice-making in an upper-most storage compartment does not render an upper-most storage compartment a freezer compartment.

- There is at least one freezer or convertible compartment that is mounted below an uppermost interior storage compartment(s).

For purposes of the investigation, a refrigerator compartment is capable of storing food at temperatures above 32 degrees F (0 degrees C), a freezer compartment is capable of storing food at temperatures at or below 32 degrees F (0 degrees C), and a convertible compartment is capable of operating as either a refrigerator compartment or a freezer compartment, as defined above.

Also covered are certain assemblies used in bottom mount combination refrigerator-freezers, namely: (1) any assembled cabinets designed for use in bottom mount combination refrigerator-freezers that incorporate, at a minimum: (a) an external metal shell, (b) a back panel, (c) a deck, (d) an interior plastic liner, (e) wiring, and (f) insulation; (2) any assembled external doors designed for use in bottom mount combination refrigerator-freezers that incorporate, at a minimum: (a) an external metal shell, (b) an interior plastic liner, and (c) insulation; and (3) any assembled external drawers designed for use in bottom mount combination refrigerator-freezers that incorporate, at a minimum: (a) an external metal shell, (b) an interior plastic liner, and (c) insulation.

The products subject to the investigation are currently classifiable under subheadings 8418.10.0010, 8418.10.0020, 8418.10.0030, and 8418.10.0040 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this investigation may also enter under HTSUS subheadings 8418.21.0010, 8418.21.0020, 8418.21.0030, 8418.21.0090, and 8418.99.4000, 8418.99.8050, and 8418.99.8060. Although the HTSUS subheadings are

provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.

#### Scope Comments

In the Preliminary Determination, we did not modify the description of the scope of this investigation in the manner requested by certain interested parties. Specifically, we did not modify the scope to be consistent with the Association of Home Appliance Manufacturers (AHAM) definition, nor did we exclude kimchi refrigerators or Quatro Cooling Refrigerators from the scope. We did, however, clarify the scope to eliminate any ambiguity with respect to the inclusion of Quatro Cooling Refrigerators in the scope of the investigation. See Preliminary Determination, 76 FR at 67690-67691. No party commented on our preliminary scope determination. Therefore, we made no further changes to the description of the scope, as stated in the Preliminary Determination.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum (Decision Memorandum), which is adopted by this notice. A list of the issues raised is attached to this notice as Appendix I. The Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed

Decision Memorandum and the electronic version of the Decision Memorandum are identical in content.

### Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by the respondents for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by the respondents.

### Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for each respondent. For a discussion of these changes, see the “Margin Calculations” section of the Decision Memorandum.

### Cost of Production

As discussed in the Preliminary Determination, we conducted an investigation to determine whether the respondents made comparison-market sales of the foreign like product during the POI at prices below their cost of production (COP) within the meaning of section 773(b) of the Act. See Preliminary Determination, 76 FR at 67698-67699. For this final determination, we performed the cost test following the same methodology as in the Preliminary Determination, after making certain adjustments to the reported comparison-market cost and sales data based on our analysis of the comments received and our findings at verification, where appropriate.

We found that 20 percent or more of each respondent’s sales of a given product during the POI were at prices less than the weighted-average COP for this period. Thus, we determined

that these below-cost sales were made in “substantial quantities” within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. See sections 773(b)(1)-(2) of the Act.

Therefore, for purposes of this final determination, we found that each respondent made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales and used the remaining sales as the basis for determining normal value for each respondent pursuant to section 773(b)(1) of the Act.

#### MNC Provision

As we discussed in the Preliminary Determination, we applied the Special Rule for Certain Multinational Corporations (MNC Provision) in the calculation of normal value (NV) for LGEMM because, based on the record evidence, LGEMM satisfied each of the three criteria enumerated under section 773(d) of the Act. In so doing, we based NV for LGEMM on the prices of sales made by LG Electronics, Inc. (LGE) in Korea. See Preliminary Determination, 76 FR at 67692-67693.

We have continued to apply the MNC Provision to the calculation of LGEMM’s NV for purposes of the final determination because all three criteria enumerated in the Act have been met. Specifically, we verified that LGEMM is owned in part by LGE, which produces bottom mount refrigerators, and that LGEMM’s home market sales are not viable for comparison to its U.S. sales. Furthermore, using the same methodology as that employed in the Preliminary Determination, after taking into account adjustments made to LGEMM’s and LGE’s sales and cost data based on our analysis of other comments received and our findings at verification, we continue to find that the NV of the foreign like product produced in Korea is higher than the NV



of the foreign like product produced in Mexico. Therefore, we compared LGEMM's U.S. prices to the prices of sales made by LGE in Korea. For further discussion of this issue, see Comment 3 of the Decision Memorandum.

### Targeted Dumping

The Act allows the Department to employ the average-to-transaction margin calculation methodology under the following circumstances: 1) there is a pattern of export prices that differ significantly among purchasers, regions or periods of time; and 2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. See section 777A(d)(1)(B) of the Act.

In the Preliminary Determination, we conducted time-period targeted dumping analyses for Electrolux, LGEMM, and Samsung based on timely allegations of targeted dumping filed by the petitioner, using the methodology adopted in Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value, 73 FR 33985 (June 16, 2008), and Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 33977 (June 16, 2008) (Nails), and applied in more recent investigations.<sup>4</sup> As a result, we preliminarily determined that there was a pattern of U.S. prices for comparable merchandise that differed significantly among certain time periods for Samsung and LGEMM, in accordance with section 777A(d)(1)(B)(i) of the Act. We also preliminarily determined that no

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<sup>4</sup> These investigations include Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia: Final Determination of Sales at Less Than Fair Value, 75 FR 59223 (Sept. 27, 2010) and accompanying Issues and Decision Memorandum at Comment 1, and Multilayered Wood Flooring From the Peoples' Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (Oct. 18, 2011) and accompanying Issues and Decision Memorandum at Comment 4.

such pattern existed for Electrolux.

Furthermore, for Samsung, we found that the standard average-to-average methodology took into account the price differences because the alternative average-to-transaction methodology yielded no difference in the margin or yielded a difference in the margin that was so insignificant relative to the size of the resulting margin as to be immaterial. Accordingly, we preliminarily applied the standard average-to-average methodology to all U.S. sales made by Samsung. For LGEMM, we found that that the standard average-to-average methodology did not take into account the price differences because the alternative average-to-transaction methodology yielded a material difference in the margin. Accordingly, we preliminarily applied the average-to-transaction methodology to all U.S. sales made by LGEMM. For Electrolux, because we did not find a pattern of prices that differed significantly for certain time periods, we applied our standard average-to-average price comparison methodology to all U.S. sales made by Electrolux. See Preliminary Determination at 76 FR 67691-67692.

For purposes of the final determination, we performed our targeted-dumping analysis following the methodology employed in the Preliminary Determination, after taking into account the petitioner's revised targeted dumping allegation with respect to Samsung, and making certain revisions to Electrolux's, LGEMM's and Samsung's reported U.S. sales data based on verification findings and our evaluation of other comments submitted by the parties, as enumerated in the "Margin Calculations" section of the Decision Memo. In so doing, we found that the results of our final targeted-dumping analysis were consistent with those of our preliminary targeted-dumping analysis with respect to Electrolux. Therefore, we continued to apply the standard average-to-average methodology to all of Electrolux's U.S. sales. For

Samsung and LGEMM, while we found a pattern of price differences that differed significantly for certain time periods pursuant to section 777A(d)(1)(B) of the Act, we determined that the differences can be taken into account using the average-to-average methodology. Therefore, we applied the standard average-to-average methodology to all U.S. sales made by Samsung and LGEMM. See LGEMM Calculation Memo, Samsung Calculation Memo, and Electrolux Calculation Memo. For further discussion, see Comment 2 of the Decision Memorandum.

#### Critical Circumstances

In the Preliminary Determination, we found that critical circumstances exist with respect to imports of the subject merchandise from Samsung but not with respect to imports of subject merchandise from Electrolux or LGEMM.<sup>5</sup> See Preliminary Determination, 76 FR at 67701-67702. Samsung objected to our preliminary affirmative critical circumstances determination with respect to it, arguing among other things, that its imports have not been massive since the filing of the petition.

In conducting our critical circumstances analysis for the final determination, we relied on updated shipment data provided by Electrolux, LGEMM, and Samsung which we examined at verification. Based on our analysis of these data and the criteria enumerated under section 735(a)(3) of the Act, we continue to find that critical circumstances exist only with respect to imports of bottom mount refrigerators from Samsung, as explained below.

Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or

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<sup>5</sup> The petitioner did not make a critical circumstances allegation with respect to imports from Mabe or All Others.

elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive." Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (i.e., the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In determining whether the above criteria have been satisfied, we examined: (1) the evidence placed on the record by the respondents and the petitioner; and (2) the International Trade Commission's (ITC's) preliminary determination of injury (see Bottom Mount Refrigerator Freezers from Mexico and Korea, Investigation Nos. 701-TA-477 and 731-TA-1180-1181 (Preliminary), 76 FR 29791 (May 23, 2011) (ITC Preliminary Determination))).

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 735(a)(3)(A)(i) of the Act, the Department normally

considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient.<sup>6</sup> As mentioned in the Preliminary Determination, the petitioner did not identify any proceeding with respect to bottom mount refrigerators from Mexico, nor are we aware of any existing antidumping duty order in any country on bottom mount refrigerators from Mexico. For this reason, the Department does not find a history of injurious dumping of the subject merchandise from Mexico pursuant to section 735(a)(3)(A)(i) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV, and that there was likely to be material injury by reason of such sales in accordance with section 735(a)(3)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for export price (EP) sales or 15 percent or more for constructed export price (CEP) transactions sufficient to impute knowledge of dumping.<sup>7</sup>

Electrolux made only CEP sales and the vast majority of LGEMM's sales are CEP. Samsung had both EP and CEP sales, a majority of which are CEP sales. The final dumping margins calculated for Electrolux, LGEMM, and Samsung exceed the threshold sufficient to impute knowledge of dumping (i.e., 15 percent for CEP sales). Therefore, we determine that

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<sup>6</sup> See e.g., Certain Magnesia Carbon Bricks From the People's Republic of China: Notice of Preliminary Affirmative Determination of Critical Circumstances, 75 FR 28237 (May 20, 2010), unchanged in Certain Magnesia Carbon Bricks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances 75 FR 45468 (August 2, 2010).

<sup>7</sup> See e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Critical Circumstances Determination: Certain Orange Juice from Brazil, 70 FR 49557 (August 24, 2005), unchanged in Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil, 71 FR 2183 (January 13, 2006) (Certain Orange Juice from Brazil).

there is sufficient basis to find that importers should have known that each of these companies was selling the subject merchandise at LTFV pursuant to section 735(a)(3)(A)(ii) of the Act. In determining whether an importer knew or should have known that there was likely to be material injury by reason of dumped imports, the Department normally will look to the preliminary injury determination of the ITC. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports. See e.g., Certain Orange Juice from Brazil. In the present case, the ITC preliminarily found reasonable indication that an industry in the United States is materially injured by imports of bottom mount refrigerators from Mexico. See ITC Preliminary Determination. Based on the ITC's preliminary determination of injury, and the final antidumping margins for Electrolux, LGEMM, and Samsung, the Department finds that there is a reasonable basis to conclude that the importer knew or should have known that there was likely to be injurious dumping of subject merchandise for these companies.

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 735(a)(3)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (i.e., the base period) to a comparable period of at least three months following the filing of the petition (i.e., the comparison period). Accordingly, in determining whether imports of the subject merchandise have been massive, we based our analysis for each of the three companies on shipment data for comparable seven-month periods preceding and following the filing of the petition.

Specifically, the Department requested and obtained from each of the respondents monthly shipment data from January 2008 to October 2011. To determine whether imports of subject merchandise have been massive over a relatively short period, we compared, pursuant to 19 CFR 351.206(h)(1)(i), the respondents' export volumes for the seven months before the filing of the petition (i.e., September 2010 – March 2011) to those during the seven months after the filing of the petition (i.e., April through October 2011). These periods were selected based on the Department's practice of using the longest period for which information is available up to the date of the preliminary determination.<sup>8</sup> According to the monthly shipment information, we found the volume of shipments of bottom mount refrigerators increased by more than 15 percent for Electrolux, LGEMM, and Samsung.

For purposes of our “massive imports” determination, we also considered the impact of seasonality on imports of bottom mount refrigerators based on interested party comments and information contained in the ITC’s preliminary determination. In order to determine whether the seasonality factor accounted for the increase in imports observed for each of the respondents in the post-petition filing period (the comparison period), we analyzed company-specific shipment data for a historical three-year period, where possible, using the same base and comparison time periods noted above. As a result of this analysis, we found that there is a consistent pattern of seasonality in the industry, and that seasonal trends account for the increase in imports subsequent to the filing of the petition from each of the respondents except one. Specifically, with respect to Electrolux and LGEMM, we found that the percentage increase in shipments

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<sup>8</sup> See e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Silicon Metal From the Russian Federation, 67 FR 59253, 59256 (Sept. 20, 2002), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Silicon Metal From the Russian Federation, 68 FR 6885 (February 11, 2003).

during the comparison period is not related to the filing of the petition but rather to the consistent seasonal trends in the industry because shipments during the April - October time period were consistently higher than those in the September-March time period from year to year, and the shipment increases observed in the April – October time period from year to year decreased. Therefore, for purposes of the final determination, we find that imports from these companies during the period after the filing of the petition have not been massive in accordance with section 735(a)(3)(B) of the Act. However, with respect to Samsung, we found that the percentage increase in shipments during the comparison period is not related to seasonal trends but associated with the filing of the petition because shipments in the April-October 2010 time period were lower than those in the September 2009-March 2010 time period, and the shipment increase observed in the April – October period between 2010 and 2011 was substantial. Accordingly, for purposes of the final determination, we find that imports from Samsung during the period after the filing of the petition have been massive in accordance with section 735(a)(3)(B) of the Act.

In summary, we find that there is a reasonable basis to believe or suspect importers had knowledge of dumping and the likelihood of material injury with respect to bottom mount refrigerators produced and exported from Mexico by Electrolux, LGEMM, and Samsung. In addition, we find that there have been massive imports of bottom mount refrigerators over a relatively short period from Samsung, irrespective of seasonality. However, we do not find that there have been massive imports of bottom mount refrigerators over a relatively short period from Electrolux and LGEMM due to seasonality. Therefore, for the reasons stated above, the Department finds that critical circumstances do not exist for imports of the subject merchandise



from Electrolux and LGEMM, but continues to find that critical circumstances exist for imports of the subject merchandise from Samsung in the final determination. For a complete discussion of our final critical circumstances analysis, see the Decision Memorandum at Comment 34 and the March 16, 2012, Memorandum to James P. Maeder, Jr., Director, Office 2, from The Team entitled, “Antidumping Duty Investigation of Certain Bottom Mount Refrigerator Freezers from Mexico — Final Determination of Critical Circumstances.”

#### Continuation of Suspension of Liquidation

Pursuant to 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Mexico, produced/exported by Electrolux, LGEMM, Mabe, and “All Others” and entered, or withdrawn from warehouse, for consumption on or after November 2, 2011, the date of publication of the preliminary determination in the Federal Register. Pursuant to 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Mexico, produced/exported by Samsung and entered, or withdrawn from warehouse, for consumption on or after August 4, 2011, which is 90 days prior to the date of publication of the preliminary determination in the Federal Register, i.e., November 2, 2011. CBP shall require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

Final Determination Margins

The weighted-average dumping margins are as follows:

<u>Exporter/Manufacturer</u>	<u>Weighted-Average Margin Percentage</u>	<u>Critical Circumstances</u>
Electrolux Home Products, Corp. NV/ Electrolux Home Products De Mexico, S.A. de C.V.	22.94	No
LG Electronics Monterrey Mexico, S.A. de C.V.	30.34	No
Controladora Mabe S.A. de C.V./ Mabe S.A. de C.V.	6.00	NA
Samsung Electronics Mexico, S.A. de C.V.	15.95	Yes
All Others	20.26	NA

“All Others” Rate

In accordance with section 735(c)(5)(A) of the Act, we based the “All Others” rate on the weighted average of the dumping margins calculated for the exporters/manufacturers investigated in this proceeding. The “All Others” rate is calculated exclusive of all de minimis margins and margins based entirely on AFA.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

### ITC Notification

In accordance with section 735(d) of the Act, we notified the ITC of our final determination. As our final determination is affirmative, the ITC will determine within 45 days whether imports of the subject merchandise are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

### Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

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Paul Piquado  
Assistant Secretary  
for Import Administration

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March 16, 2012  
(Date)

## Appendix – Issues in Decision Memorandum

### General Issues

1. Targeted Dumping
2. Zeroing in Average-to-Transaction Comparisons

### Company-Specific Issues

#### LGEMM

3. Application of MNC Provision
4. Lump Sum and Sell-Out Rebates on U.S. Sales
5. Non-Product-Specific Accrual Rebates on U.S. Sales
6. Warehouse-to-Customer U.S. Inland Freight Expenses
7. Billing Adjustments on U.S. Sales
8. Interest Rate for U.S. Inventory Carrying Costs
9. Payment Dates on Certain U.S. Sales
10. Payment Dates on Certain Canadian Sales
11. Lump Sum and Sell-Out Rebates on Canadian Sales
12. Direct Advertising Expense Ratio for Canadian Sales
13. Conversion Cost Allocation Error
14. Research and Development Costs
15. Global Costs
16. Affiliated Party Input Purchases

#### Samsung

17. Corrections Presented at Start of Sales Verifications
18. U.S. Rebates
19. CEP Offset
20. The Denominator for Certain Selling Expense Ratios
21. U.S. Indirect Selling Expenses
22. Classification of Certain Costs as Packaging or Packing
23. Treatment of Payments for Defective Merchandise
24. Unreported Bank Charges
25. Comparison Market Viability
26. Calculation of CV Selling Expenses and Profit
27. Research and Development Costs
28. Certain Affiliated Party Purchases
29. Affiliated Party Compressors Purchases
30. Erroneously Reported Input Quantities
31. General and Administrative Expense Ratio
32. Interest Expense Offset
33. Understatement of Input Freight Costs
34. Critical Circumstances

Mabe

- 35. Costs Excluded from Cost of Production
- 36. Fees Related to Agreements Between Mabe and GEA
- 37. U.S. Indirect Selling Expenses
- 38. U.S. Rebates
- 39. U.S. Advertising Expenses
- 40. Cost Verification Corrections
- 41. Home Market Rebate Identified at Verification

Electrolux

- 42. Verification Findings